

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of  
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

SAMDIA FAMILY L.P., a Delaware limited  
partnership, SAMUEL L. MESSING, and DIANA  
L. MESSING,

Defendants.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

Adv. Pro. No. 10-04750 (SMB)

**STIPULATION AND ORDER AS TO EXHIBIT B TO COMPLAINT**

The plaintiff, Irving H. Picard, trustee (“Trustee”) for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities (“BLMIS”) and the estate of Bernard L. Madoff, individually (“Madoff”), and defendants Samdia Family L.P., Samuel L. Messing and Diana L. Messing (“Defendants”), by and through their respective, undersigned counsel (collectively, the “Parties”), state as follows:

**WHEREAS**, on December 1, 2010, Trustee commenced this adversary proceeding against Defendants seeking to avoid and recover certain initial transfers made by BLMIS and/or Madoff to or for the benefit of Defendants relating to an account Defendants held at BLMIS and/or with Madoff;

**WHEREAS**, Defendants raise certain defenses to the Trustee's claims in the Complaint; and

**WHEREAS**, the Parties have conferred in an attempt to resolve, where possible, certain differences and disputes between them, and the parties are entering into this Stipulation to avoid unnecessary litigation over discovery disputes in the interest of efficiency.

**NOW, THEREFORE**, the Parties agree and stipulate to the following:

1. In connection with any motion practice, trial, or appeal, the Defendants: (a) will not challenge the accuracy or completeness of the deposit, withdrawal and transfer of principal related information set forth in columns 1 through 6 of Exhibit B to the Trustee's Complaint; (b) concede that the funds reflected in Column 5 of Exhibit B were withdrawn from the Defendants' BLMIS account and received by Defendants; and (c) shall withdraw the Defendants' Twentieth Affirmative Defense, alleging that the Trustee has "fraudulently calculated the Defendants' liability" by charging the Defendants with "withdrawals that the Trustee has no proof were taken," Twenty-Seventh Affirmative Defense, alleging that the Trustee failed to credit properly "inter-account transfers, profit withdrawals, and other adjustments," Thirty-Ninth Affirmative Defense, alleging that Defendants' are entitled to full-dollar credit for funds transferred into their account, and Forty-Sixth Affirmative Defense, alleging that the Trustee failed to credit properly "all of the Defendants' deposits."

2. By executing this Stipulation, Defendants in no way concede or admit liability under the United States Bankruptcy Code, the Securities Investor Protection Act, or any other applicable law.

3. Defendants, represented in this action by counsel, have read and understand the contents of this Stipulation.

4. This Stipulation may be signed by the parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

Dated: New York, New York  
March 28, 2017

Of Counsel:

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Substantively Consolidated SIPA Liquidation  
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**SAMDIA FAMILY L.P.**

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Samuel L. Messing  
General Partner

By: s/ Diana L. Messing  
Diana L. Messing  
General Partner

s/ Samuel L. Messing  
Samuel L. Messing

s/ Diana L. Messing  
Diana L. Messing

SO ORDERED this 29<sup>th</sup> day of March, 2017.

/s/ STUART M. BERNSTEIN  
HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE